UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

EUGENE ORANGE, Plaintiff, vs. A. HEDGEPETH, Warden, Defendant.	CASE NO. 07cv2066 JLS (WMc) **ORDER: DECLINING ISSUANCE OF CERTIFICATE OF APPEALABILITY**

A state prisoner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of his petition, and an appeal is only allowed in certain circumstances. Miller-El v. Cockrell, 537 U.S. 322, 327-28 (2003). A certificate of appealability is authorized "if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To meet this standard, a petitioner must show that "jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." Miller-El v. Cockrell, 537 U.S. 322, 327 (2003). While the petitioner is not required to prove the merits of his case, he must demonstrate "something more than the absence of frivolity or the existence of mere good faith on his or her part." Id. at 338 (internal quotations and citations omitted).

In the present case, the Court dismissed the petition as duplicative because it was identical to a petition he previously filed in case number 07cv0749. The Court finds that reasonable jurists would not find the Court's determination that Petitioner is not entitled to federal habeas corpus relief in this case debatable, wrong, or deserving of encouragement to proceed further. Petitioner has not made the required substantial showing of the denial of a constitutional right. Accordingly, the Court hereby **DECLINES** to issue a certificate of appealability.

IT IS SO ORDERED.

DATED: March 19, 2008

Janis L. Sammartino

Honorable Janis L. Sammartino
United States District Judge